

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

KEHINDE BALOGUN,

Plaintiff,

Case No. 18-CV-301

v.

THE BOARD OF REGENTS OF THE
UNIVERSITY OF WISCONSIN SYSTEM,
KEVIN CHEREK and BOBBY BURROW,

Defendants.

PLAINTIFF'S RESPONSE TO DEFENDANTS' PROPOSED JURY INSTRUCTIONS

COMES NOW the Plaintiff by his attorneys Davey & Goldman by Bruce M. Davey and Lisa C. Goldman and files the following objections to Defendants' Proposed Jury Instructions:

3.01 General Employment.

1. This instruction states that Plaintiff's claim was that he was laid off and not rehired because of his race and/or national origin. As with Defendants' proposed verdict, Plaintiff is not required to prove he was both laid off and not rehired for reasons prohibited by Title VII.
2. The requested instruction is the but for standard which is not the appropriate standard for Title VII status claims (ie. race and national origin). An employee who alleges status-based discrimination under Title VII need not show that the causal link between injury and wrong is so close that the injury would not have occurred but for the act. It suffices to show that the motive to discrimination was one of the employer's motives even if the employer also had another motive.

University of Tex. Southwestern Med Ctr. V. Nassar, 570 U.S. 338, 343 (2013)

Plaintiff requests that the mixed motive instruction be given for Plaintiff's Title VII race, color and national origin claims.

3.02 Retaliation Instruction.

1. This proposed instruction also states that both the lay off and failure to rehire must have been because of complaints of discrimination. Either one is sufficient.
2. The instruction also fails to state that Balogun filed a retaliation complaint. Plaintiff requests the court give the Plaintiff's proposed retaliation instruction that refers to "because of opposition to employment practices made unlawful by Title VII" and described those practices.

DATED: July 19, 2019

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CERTIFICATE OF SERVICE

I hereby certify that on Friday, July 19, 2019, I electronically filed the document above with the Clerk of the Court using the ECF system which will send notification of this filing to the defendants' counsel of record who is a registered user on this case.

DATED: July 19, 2019

DAVEY & GOLDMAN

/s/ Lisa C. Goldman

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